

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Partitioning, Disaggregation, and	)	WT Docket No. 19-38
Leasing of Spectrum	)	

**REPLY COMMENTS OF SPRINT CORPORATION**

Sprint Corporation (“Sprint”) hereby replies to comments on the Federal Communications Commission’s (“Commission’s”) above-captioned Notice of Proposed Rulemaking on its rules and policies for the partitioning, disaggregation, and leasing of spectrum licenses.<sup>1</sup> Sprint agrees with commenters who urge the Commission to permit wireless licensees to reaggregate previously partitioned or disaggregated licenses, given the public interest benefits of re-forming originally auctioned licenses. The Commission should establish a specific, efficient licensing procedure for such spectrum reaggregation. In addition, Sprint supports CTIA’s call to eliminate unnecessary procedural obstacles to spectrum leasing and to streamline the approval process for block-to-block spectrum swaps.

**I. THE COMMISSION SHOULD ENABLE PARTIES TO REAGGREGATE ORIGINALLY AUCTIONED WIRELESS LICENSES EFFICIENTLY**

The Commission in the *NPRM* recognizes that, under its current rules, there is no specific provision for reaggregating previously subdivided components of a geographic area license, even when the partitioned or disaggregated portions of an original license are held by a single entity.<sup>2</sup> The Commission seeks comment on whether it should formally permit such license re-

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<sup>1</sup> *Partitioning, Disaggregation, and Leasing of Spectrum*, Notice of Proposed Rulemaking, WT Docket No. 19-38, FCC 19-22 (rel. Mar. 15, 2019) (“*NPRM*”).

<sup>2</sup> *NPRM* ¶ 28.

consolidation. A number of commenters support this step, pointing to potential benefits for licensees, the Commission, and wireless consumers.<sup>3</sup> Sprint has long favored Commission creation of a spectrum reaggregation mechanism,<sup>4</sup> and it reiterates this support below.

**A. The Commission Should Establish a Specific Mechanism for Spectrum Reaggregation and License Re-Consolidation**

Sprint agrees with CTIA that the Commission should establish a streamlined, efficient licensing procedure enabling the reaggregation of previously partitioned or disaggregated spectrum to re-form originally auctioned wireless licenses.<sup>5</sup> Sprint and other operators have pursued such reaggregation on an *ad hoc* basis through existing licensing procedures, but these processes have been inconsistent and often involved lengthy review by Commission staff.<sup>6</sup>

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<sup>3</sup> Comments of CTIA, WT Docket No. 19-38, at 12-15, 20 (June 3, 2019) (“CTIA Comments”); Comments of the Competitive Carriers Association, WT Docket No. 19-38, at 3 (June 3, 2019) (“CCA Comments”); Comments of Google LLC, WT Docket No. 19-38, at 14-16 (June 3, 2019) (“Google Comments”); Comments of the R Street Institute, WT Docket No. 19-38, at 4 (May 30, 2019) (“R Street Institute Comments”).

<sup>4</sup> See Comments of Sprint Nextel Corporation, WT Docket No. 10-112, at 19-20 (Aug. 6, 2010).

<sup>5</sup> CTIA Comments at 20.

<sup>6</sup> In January 2018, Sprint used existing *pro forma* assignment processes to attempt to reaggregate partitioned spectrum and re-consolidate an original license. See Nextel Communications of the Mid-Atlantic, Inc., Description of *Pro Forma* Assignment and Public Interest Statement, ULS File No. 0008063765, at 1 (filed Jan. 16, 2018) (explaining that the purpose of the assignment is to allow a wholly owned subsidiary of Sprint Corporation “to reconsolidate the small partitioned spectrum area licensed under WPQT200 with the underlying license WPLM552 – from which it originally came”). While the Commission granted the initial step in the application process – the movement of the licenses to the same licensing entity – the Commission has yet to process the application to reaggregate the spectrum into one license. Sprint’s research shows that the Commission has previously processed *ad hoc* applications to re-consolidate licenses across a host of wireless spectrum bands. See Nextel WIP License Corp., ULS File Nos. 0000493992, 0000493991, 0000493987, 0000493981, 0000493896 (all filed on June 18, 2001 and approved on February 26, 2002 (800 MHz)); New Cingular Wireless PCS, LLC, ULS 0002434076 (filed in January 5, 2006 and approved January 12, 2006 (1.9 GHz PCS)); Fixed Wireless Holdings LLC (Clearwire) ULS File No. 0004410085 (combining BTAs B110 and WQDE407 (2.5 GHz)) (filed on October 4, 2010 and approved on October 10, 2010).

In place of today's *ad hoc* processes, the Commission should create a uniform mechanism that allows licensees to notify the Commission staff that they wish to reaggregate previously partitioned or disaggregated spectrum and re-constitute spectrum licenses. Parties would file this notice in the Commission's Universal Licensing System ("ULS"), triggering the requested license modifications in that database. Significantly, an entity should be able to execute this re-consolidation whether or not it has previously held the original licenses, or even if the re-consolidation is only for portions of the original license.<sup>7</sup>

As CTIA points out in its comments, the Commission need not adopt a rule to effectuate this spectrum reaggregation mechanism. The Commission has recognized that it can implement this mechanism as a procedural matter, explaining that "[t]he question of whether, and how, a partitioned or disaggregated license can be reconstituted as a matter of processing can be addressed by Commission staff under current rules and licensing systems."<sup>8</sup> Pursuant to the instant proceeding, the Commission should expeditiously establish this license re-consolidation procedure as a filing option in ULS.

#### **B. A Spectrum Reaggregation Mechanism Will Produce Significant Public Interest Benefits**

The Commission will generate significant public interest benefits by adopting an efficient spectrum reaggregation mechanism. As commenters point out, this license re-consolidation

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<sup>7</sup> Licensees should be permitted to seek even partial re-consolidations of wireless licenses and should not be limited to reaggregating only entire licenses as originally auctioned. Sprint notes that, for the most part, it has reacquired all component parts of given licenses and would seek to re-consolidate those full licenses.

<sup>8</sup> *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, & 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 8874 ¶ 88 (2017) ("*2017 WRS Order*").

procedure will reduce regulatory burdens and encourage secondary market activity that benefits carriers and customers throughout the United States, including in rural areas.<sup>9</sup>

Wireless operators holding multiple partitioned or disaggregated licenses typically incur extensive administrative and regulatory costs to comply with separate construction requirements, renewal provisions, and continuous service obligations for each license. Moreover, where numerous licenses now cover what was originally a single auctioned license area, a multiple-license holder is subject to administrative burdens far exceeding those faced by the original licensee and, in some cases, it must monitor, track, and update thousands of licenses.

As commenters point out, adopting an efficient, streamlined reaggregation process will significantly decrease administrative and regulatory costs for wireless licensees and reduce the administrative burden on the Commission.<sup>10</sup> Consolidation of previously partitioned and/or disaggregated licenses will simplify licensees' compliance with applicable requirements, as well as the administration, monitoring, and tracking of their licenses. Certainly, as a nationwide carrier holding over 35,000 discrete spectrum licenses across three major wireless spectrum bands (800 MHz, 1.9 GHz and 2.5 GHz) – many of which were previously partitioned or disaggregated and/or obtained through secondary market transactions – Sprint understands and appreciates the operational and financial accounting benefits that would result from consolidation of its license portfolio (and, in turn, streamlining of the Commission's ULS database).

Creating a reaggregation procedure in ULS ultimately will reduce the overall number of ULS filings. Once Sprint and other operators can efficiently reaggregate spectrum and re-constitute originally auctioned licenses, there will be fewer build-out demonstrations, renewal

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<sup>9</sup> See CTIA Comments at 13-15; CCA Comments at 3.

<sup>10</sup> See CCA Comments at 3 (“The Commission should also permit the reaggregation of spectrum licenses to reduce the regulatory burdens on and renewal showings of licensees.”).

applications, and continuity of service showings for the Commission to process. The Commission will conserve its scarce resources by improving its reaggregation procedures.

Perhaps counterintuitively, an efficient license re-consolidation procedure will also *promote* license partitioning and disaggregation and other secondary market activity. Because license reaggregation today involves an uncertain, difficult process, wireless licensees are sometimes reluctant to partition or disaggregate their authorizations, knowing that they will be subject to multiple, burdensome requirements if they re-acquire that spectrum. Sprint has chosen not to pursue some secondary market transactions that may have been beneficial for both parties, given the burdens that it would face should circumstances change and it eventually re-acquired the spectrum. In contrast, a streamlined reaggregation procedure will reassure licensees that if and when they again hold the full, original license area, or even major portions of the original license area, they can reduce their regulatory and administrative burdens for those licenses. As R Street Institute states, “Permitting free reaggregation alongside disaggregation would . . . incentivize initial licensees to participate in the secondary market in the first place.”<sup>11</sup> By eliminating a potential deterrent to spectrum partitioning and disaggregation, a license re-consolidation mechanism will facilitate spectrum access by small carriers and promote advanced telecommunications services in rural areas.<sup>12</sup>

Finally, contrary to one commenter’s claims, an efficient spectrum reaggregation procedure will not enable licensees to avoid or “game” their performance requirements.<sup>13</sup>

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<sup>11</sup> R Street Institute Comments at 4.

<sup>12</sup> As Google highlights, allowing reaggregation “could enhance the fluidity of spectrum holdings and thus make secondary transactions more attractive for *all* parties.” Google Comments at 14.

<sup>13</sup> Comments of the Rural Wireless Association, Inc., WT Docket No. 19-38, at 5 (June 3, 2019).

Rather, this mechanism will promote fairness in licensing, since the build-out obligations for a re-constituted license will be the same as they would have been had the license never been partitioned or disaggregated. Of course, if re-consolidation of a license occurs *after* the initial performance requirements throughout that license area are satisfied, this issue is rendered moot.<sup>14</sup>

## **II. SPRINT SUPPORTS CTIA’S COMMENTS ON STREAMLINING ISSUES**

Beyond the spectrum reaggregation issue, Sprint generally favors the other positions taken by CTIA in its comments. In particular, Sprint supports CTIA’s call to eliminate unnecessary procedural obstacles to spectrum leasing. As CTIA suggests, the Commission should either make most spectrum leases subject to prior notification by licensees/lessees rather than Commission approval, or ensure that its immediate approval procedures apply to all spectrum lease filings that meet applicable eligibility requirements.<sup>15</sup> In addition, Sprint agrees that the Commission should update FCC Form 608 to allow parties to use that form to assign their leases and convert short-term leases to long-term leases, negating the need for inefficient workarounds requiring multiple filings.<sup>16</sup> The Commission should also permit spectrum manager lessees to use FCC Form 608 to make necessary filings that neither require lessee action nor affect the underlying license (such as administrative updates and notifications of *pro forma* transfers).<sup>17</sup> Further, as CTIA requests, parties should be able to submit FCC Form 608 sublease

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<sup>14</sup> As CTIA points out in its comments, the Commission in the *2017 WRS Order* addressed concerns regarding the “gaming” of construction obligations. CTIA Comments at 15-16. There, the Commission adopted unified build-out requirements for spectrum that is partitioned or disaggregated, so that parties to a transaction are either individually or jointly held accountable for build-out requirements. *2017 WRS Order* ¶¶ 74-80. Certainly, a formal reaggregation mechanism will not undo the effects of that order.

<sup>15</sup> CTIA Comments at 7-9.

<sup>16</sup> *Id.* at 18-19.

<sup>17</sup> *Id.* at 19.

filings electronically rather than manually as is the case today.<sup>18</sup> Finally, the Commission should streamline its approval process for block-to-block spectrum swaps within the same geographic footprint, given that these transactions do not raise competitive concerns.<sup>19</sup> With these actions, the Commission will increase regulatory efficiency, reduce administrative burdens, provide licensees and lessees with additional flexibility, and encourage secondary market activity that benefits small and rural carriers and the customers they serve.

### III. CONCLUSION

For the aforementioned reasons, Sprint urges the Commission to adopt an efficient licensing mechanism that enables licensees to reaggregate previously partitioned and disaggregated spectrum and re-form originally auctioned wireless licenses. The Commission should also eliminate unnecessary procedural obstacles to spectrum leasing and streamline its approval process for block-to-block spectrum swaps.

Respectfully submitted,

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<sup>18</sup> *Id.* at 18.

<sup>19</sup> *Id.* at 9-10.